

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DOMINIQUE AVINGTON,

Petitioner,

v.

JASON BENNETT,

Respondent.

Case No. 3:24-cv-05749-LK-TLF

ORDER FOR SERVICE AND  
ANSWER, 28 U.S.C § 2254  
PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently incarcerated at Stafford Creek Corrections Center and is subject to the Court's Mandatory Electronic E-Filing Initiative pursuant to General Order 02-15 and 06-16. The Court, having reviewed petitioner's federal habeas petition, hereby finds and ORDERS as follows:

(1) The Clerk is directed to issue the Notice of Option of Consent to Magistrate Judge Theresa L. Fricke.

(2) The Clerk shall arrange for service by email upon respondent and upon the Attorney General of the State of Washington, of copies of the petition (Dkt. 4) and of this Order. The Clerk shall also direct a copy of this Order and of the Court's *pro se* instruction sheet to petitioner.

(3) Within **forty-five (45) days** after such service, respondent(s) shall file and serve an answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases

1 in United States District Courts. As part of such answer, respondent(s) shall state  
2 whether petitioner has exhausted available state remedies and whether an evidentiary  
3 hearing is necessary. Respondent(s) shall not file a dispositive motion in place of an  
4 answer without first showing cause as to why an answer is inadequate. Respondent(s)  
5 shall file the answer with the Clerk of the Court and serve a copy of the answer on  
6 petitioner.

7 (4) The answer will be treated in accordance with Local Rule LCR 7.  
8 Accordingly, on the face of the answer, respondent(s) shall note it for consideration no  
9 earlier than 28 days after filing. Petitioner may file and serve a response not later than  
10 21 days after the filing date of the answer, and respondent(s) may file and serve a reply  
11 not later than 28 days after the filing date of the answer.

12 (5) Filing by Parties, Generally

13 All attorneys admitted to practice before this Court are required to file documents  
14 electronically via the Court's CM/ECF system. Petitioner shall file all documents  
15 electronically. All filings must indicate in the upper right hand corner the name of the  
16 magistrate judge to whom the document is directed.

17 Any document filed with the Court must be accompanied by proof that it has  
18 been served upon all parties that have entered a notice of appearance in the underlying  
19 matter. Petitioner shall indicate the date the document is submitted for e-filing as the  
20 date of service.

21 (6) Motions

22 Any request for court action shall be set forth in a motion, properly filed and  
23 served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall  
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1 be submitted as a part of the motion itself and not in a separate document. The motion  
2 shall include in its caption (immediately below the title of the motion) a designation of  
3 the date the motion is to be noted for consideration on the Court's motion calendar.

4 (7) Direct Communications with District Judge or Magistrate Judge

5 No direct communication is to take place with the District Judge or Magistrate  
6 Judge with regard to this case. All relevant information and papers are to be directed to  
7 the Clerk.

8 Dated this 11th day of October, 2024.

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12 Theresa L. Fricke  
13 United States Magistrate Judge  
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